IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

WP(C).No. 35168 of 2004(J)

PETITIONER:

M.B.RADHABAI AMMA
(W/O. LATE SUKUMARA PILLAI, MANAGER (ACCOUNTS),
CHIEF OFFICE, RETD. ON 30-04-1997 AND EXPIRED ON
15-10-1998), JAYA NIVAS, KUZHIAM,
CHANDANATHOPE P.O., KOLLAM.

BY ADV. SRI.K.P.RAJEEVAN

RESPONDENTS:

1.KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR,
TRANSPORT BHAVAN, FORT, THIRUVANANTHAPURAM.

2.DISTRIT TRANSPORT OFFICER,
K.S.R.T.C., KOZHIKODE.

BY ADV. SRI.K.PRABHAKARAN, SC, K.S.R.T.C.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (W.P.C.NO.35168/04)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF FAMILY PENSION PAYMENT ORDER ISSUED TO THE PETITIONER.

EXT.P2: TRUE COPY OF LETTER NO.I.A.(R5)/2003 DATED 10.3.03.

EXT.P3: TRUE COPY OF CERTIFICATE NO.K.DIS.C2/33943/2003 DATED 14.1.2004.

EXT.P4: TRUE COPY OF REPRESENTATION DATED 15.10.2004.

PIUS C. KURIAKOSE,J.

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W.P.(C)No.35168 of 2004

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Dated: 9th February, 2007

JUDGMENT

The grievance of the petitioner who is a family pensioner and widow of late Sukumara Pillai, Manager(Accounts) in the Chief Office of the K.S.R.T.C. is that the Commuted Value of Pension which was due to her husband was paid to him only at the pre-revised rates. It is contended that consequent to a bilateral agreement pay revision was implemented in the K.S.R.T.C. with retrospective effect from 1.3.1997 and that D.C.R.G. as well as Commuted Value of Pension due to the petitioner's husband ought to have been revised. The petitioner's claim for release of D.C.R.G. at the revised rates was accepted by the K.S.R.T.C. but the one with regard the Commuted Value of Pension did not find favour with the K.S.R.T.C. Mr.K.P.Rajeevan, learned counsel for the petitioner would refer to Rule 7 of Pension (Commutation) Rules in Part A of Appendix X, Part III, K.S.R. and would place very strong reliance on the Division Bench judgment of this court in W.A.No.483 of 2005 (K.S.R.T.C. v. V.P.Yesodha). Yesodha's case was a case where the Division Bench applied Rule 7 of Pension (Commutation) Rules in Part A of Appendix X, Part III, K.S.R. and held that since Yesodha's husband had passed away before receiving the D.C.R.G. and Commuted Value of Pension

at the revised rates, Yesodha will be entitled for release of those amounts at the revised rates.

2. On behalf of the K.S.R.T.C. Mr.K.Prabhakaran, Standing Counsel made a very sincere endeavour to draw a distinction between the facts which obtained in the present case and those which obtained in the Yesodha's case. It was submitted by the Standing Counsel that unlike in Yesodha's case in the present case the husband of the petitioner had died only after receiving the pension commutation value at the pre-revised rates and D.C.R.G. also though it be at the revised rates. If it is now held that larger amount ought to have been paid to the petitioner's late husband by way of pension commutation value, such finding ought to reflect on the amounts actually drawn by the husband of the petitioner by way of monthly pension. To this extent at least a proportionate deduction will have to be made, submits counsel.

3. Notwithstandng the persuasive submissions made by the Standing Counsel for the K.S.R.T.C., I am of the view that the principles laid down by the Division Bench of this court in Yesodha's case should apply in this case, more so since the petitioner has been paid D.C.R.G. at the revised rate notwithstanding the fact that the

petitioner's husband had been paid D.C.R.G. at the pre-revised rates. I respectfully follow the principles laid down by the Division Bench in Yesodha's case and allow the Writ Petition directing the K.S.R.T.C. to disburse to the petitioner the balance amount of Commuted Value of Pension which was due to her late husband based on 1997 pay revision. The payments as directed above shall be made within six weeks of receiving a copy of this judgment.

srd **PIUS C.KURIAKOSE, JUDGE**